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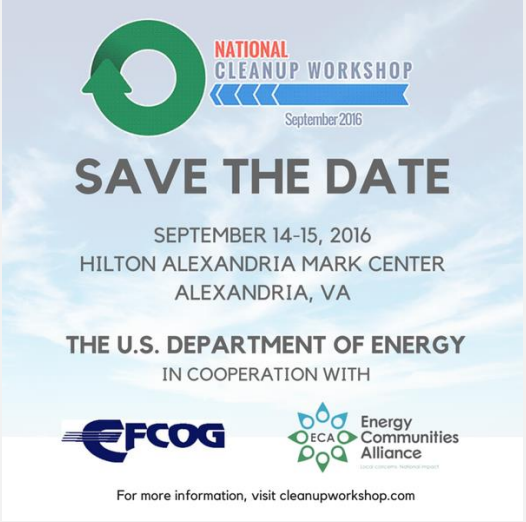

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Appeals court rebuffs environmentalists challenging nuclear waste rule

Politico

August 8, 2016

The D.C. Circuit Court of Appeals today effectively upheld a decision protecting the Nuclear Regulatory Commission's Continued Storage rule, rejecting environmentalists' long-shot bid to have their case heard before the full court.

The green groups had sought an en banc rehearing of a three-judge panel's unanimous decision in June to uphold the storage rule, which governs how nuclear waste is stored at reactor sites across the country until a permanent repository is built. The NRC won that case after the D.C. Circuit forced it to rewrite an earlier version of the rule that was challenged by environmentalists and a few Northeastern states.

While nine anti-nuclear groups like Beyond Nuclear and the Nuclear Information and Resource Service asked for the en banc rehearing, the Natural Resources Defense Council, which argued much of the case in court, didn't join.

The rehearing request was brought before 12 active judges of the D.C. Circuit (Chief Judge Merrick Garland, President Barack Obama's nominee for the Supreme Court, didn't participate) and none of them called for a vote on the request.

GAO Faults Energy Department on WIPP Restart Process

Occupational Health & Safety Online

August 5, 2016

The U.S. Government Accountability Office issued a report Aug. 4 on its examination of the U.S.Department of Energy's process for resuming

Energy Summit
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14

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House Nuclear Cleanup Caucus
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New Orleans, LA

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operations at the Waste Isolation Pilot Plant (WIPP), the transuranic waste disposal site outside of Carlsbad, N.M. Operations there have been suspended since two serious incidents in February 2014, a salt haul truck fire and a radiological release from a waste container, incidents that exposed workers to smoke and radiation. The GAO report says the resumption has seen a cost increase of about $64 million and a delay of nearly nine months partly because DOE did not follow all best practices in developing the cost and schedule estimates. In particular, its schedule did not include extra time, or contingency, to account for known project risks.

DOE estimated it would restart waste operations in March 2016, but it approved new estimates in January 2016 that added 8.5 months to the schedule, extending the restart to December 2016.

According to GAO's report, DOE did not provide evidence of having an independent cost estimate to validate the revised estimate and didn't follow all best practices for cost and schedule estimates in part because DOE does not require that its cleanup operations follow them. Nor did DOE follow all best practices in analyzing and selecting an alternative for the new ventilation system at WIPP that was planned in order to result full operations. "As a result, DOE's analysis was not reliable and DOE cannot be confident that the alternative it selected in December 2015 will best provide the needed capabilities at WIPP," GAO reported.

WIPP is the only deep geologic repository for the disposal of U.S. defense-related nuclear waste. GAO has recommended that DOE require cleanup operations to follow best practices for cost and schedule estimates, and DOE has concurred with that and other recommendations.

After the incidents, DOE issued a Preliminary Notice of Violation to Nuclear Waste Partnership, LLC for violations of DOE worker safety and health and nuclear safety requirements and the agency's National Nuclear Security Administration issued a PNOV to Los Alamos National Security for violations of DOE's nuclear safety requirements. Nuclear Waste

Partnership, LLC is the management and operating contractor for WIPP, while Los Alamos National Security is the management and operating contractor for NNSA's Los Alamos National Laboratory in Los Alamos, N.M. DOE had confirmed 13 workers' radiation exposures. DOE reported that the violations by LANS were associated with processes used by LANS to package and remediate transuranic waste drums, one of which was linked to the WIPP radiological release.

And DOE installed a wireless system underground at WIPP that allows two-way communication for both talk and text, with audible and flashing alarms, so personnel can immediately signal the Central Monitoring Room during an emergency. The system provides real-time tracking of all personnel entering the WIPP underground.

Energy Department improves whistleblower protections

The Hill

August 5, 2016

The Department of Energy (DOE) has rolled out two new measures aimed at cracking down on whistleblower retaliation by the contractor companies that run national laboratories.

The new actions, announced late Thursday by DOE general counsel Steven Croley in a blog post, follows a Government Accountability Office report identifying numerous shortcomings by the department on whistleblower protections.

The first change is targeted at companies that try to get reimbursed by the DOE for the costs of defending whistleblower retaliation claims.
Under a new guidance document, officials deciding whether to reimburse those costs are instructed to consider whether the company in fact retaliated against the whistleblower, regardless of who wins in court or arbitration.

The DOE is also proposing a regulation that would allow it to penalize contractors that retaliate against employees for bringing up nuclear safety concerns.

“The department has gone to great lengths to ensure that employees can raise concerns about health, safety and management issues without fear of retaliation,” Croley said about the changes.

“Because we believe our mission is best served by a culture where employees are confident their concerns will be heard and that they will not be punished for raising them,” he wrote.

The new changes, he said, “will further institutionalize our considerable efforts to ensure that all employees can raise safety and management concerns without fear of retaliation.”

Next major Pantex project enters second phase

Amarillo Globe-News

August 5, 2015

The National Nuclear Security Administration announced Monday the B61-12 smart bomb has moved into the production engineering phase and the first units are expected to be produced by fiscal year 2020.

“Reaching this next phase of the B61-12 LEP is a major achievement for NNSA and the exceptionally talented scientists and engineers whose work underpins this vital national security mission,” wrote NNSA Administrator Lt. Gen. Frank G. Klotz (Ret.) in a press release. “Currently, the B61 contains the oldest components in the U.S. arsenal. This LEP (life extension program) will add at least an additional 20 years to the life of the system.”

The majority of the work on the B61 life extension program is scheduled to be performed at the Pantex Plant located 17 miles northeast of Amarillo. The B61-12 program is one of two nuclear-armed gravity bombs in the U.S. arsenal, the other being the B83-1. The completion of the B61-12 will "allow for the retirement of the B83-1 — the last megaton-class weapon in America's nuclear arsenal..." wrote Secretary of Energy Ernest Moniz.

The bomb's life extension program has continuously revised its costs, going from an estimated $4 billion in 2011 to a total cost of $10 billion for 400 to 480 bombs, plus $1 billion for the tail kit, making it the most expensive nuclear bomb ever built.

"The key question is what value does the United States get for this substantial investment, when nuclear weapons play such a modest role in American security overall?" asked Stephen Young, senior analyst with the Union of Concerned Scientists Global Security Program. "Moreover, this program is just one piece of the NNSA's plans to replace the entire U.S. nuclear stockpile, and an even small part of the proposal to rebuild the U.S. nuclear force as a whole, including the missiles, bombers and submarines, at a cost estimated at $1 trillion."

The B61-12 will update and replace the existing B61 bombs that entered the U.S. arsenal in the 1960s by refurbishing the nuclear and non-nuclear components.

The country currently has four versions of the B61: The B61-3 and -4, which are two "tactical" bombs delivered by fighter planes; and the B61-7 and -10, which are two "strategic" bombs delivered by long-range bombers. The B61-11 will remain in the country's arsenal.

The B61-12 will also include a tail kit designed by the Boeing Company under contract to the U.S. Air Force.

One of the main selling points of the B61-12 bombs was that they would be accurate up to 30 meters with their tail kits. A performance evaluation review of Pantex Plant manager, Consolidated Nuclear Security, identified issues that the Department of Defense had with six B61-12 smart bombs, "the most severe of which was the installation of an incorrect tail case on the (bomb) that was delivered to the Department of Defense."

The Department of Defense returned the bomb to Pantex.

Compensation finally comes for former INL workers

Idaho Falls Post Register

August 7, 2016

Blair Burroughs recalled a change in his father's thinking after he retired from Idaho National Laboratory in 1986.

E Burroughs had moved his family to Idaho from Texas in 1965 to take a nuclear engineering job at the lab. E loved the work, Blair said this week, spending time at several of the lab's 52 reactors over the years. Then something changed.

"He was always a staunch supporter of nuclear energy and what was being done, until after he retired," Blair said of his father. "He said at one point, 'I'm not sure we were fully informed of what was going on, and the risks out there.'"

E's perspective shifted as he watched several former colleagues die of the same type of rare brain cancer, Blair said. Then E himself died of pancreatic cancer at 73, after a two-year battle with the disease in the 1990s.

Twenty years later, Blair, 65, and his family are finally expected to be compensated by the federal government for E's death. They had tried

before and were rejected, unable to prove that E's extensive exposure to radiation on the job had contributed to his cancer.

But the approval last month of two "special exposure cohort" classes at INL and Argonne National Laboratory-West will finally allow hundreds of former workers and their families to receive government compensation and benefits. Many, like the Burroughs, previously saw their compensation claims turned down by the U.S. Department of Labor.

It is the first time any INL employees have been included in the nation's special exposure cohort. The cohort — which covers dozens of nuclear facilities across the country — serves as recognition that workers were exposed to various types of radiation or chemicals while on the job, that it was often not monitored closely, and that it likely led to cancer. It means the burden of proof isn't on the workers or their families; they must only show they got one of 22 types of cancer.

Idaho workers newly covered under the cohort include those who worked at INL from 1970 through 1974 in areas monitored for radiation. According to the National Institute for Occupational Safety and Health, which oversees the cohort, many workers in that time period were exposed to radionuclides such as uranium, plutonium and thorium — though there is little data that still exists to prove it.

It's the same story for workers at ANL-West facilities between 1951 and 1957, NIOSH said. Workers were exposed to various types of radiation. But there is hardly any remaining evidence, which had made it next to impossible for workers to demonstrate they had been exposed.

Under the cohort, many more former workers will finally be eligible to receive at least $150,000 in compensation and have their medical bills paid. It also allows for the family to be compensated if the worker died.

“They’ve been waiting a long, long time,” said Albert Frowiss, an independent claims advocate for nuclear workers who specializes in the cohort.

Many claims rejected

The special exposure cohort was established under energy worker legislation approved by Congress in 2000, which aimed to compensate and provide medical benefits to workers who suffered illnesses related to radiation exposure or other chemicals.

Called the Energy Employees Occupational Illness Compensation Act, it recognized the lasting health consequences and death that resulted from decades of U.S. nuclear research and production. At INL alone, the government confirmed last year that radiation or chemical exposure was at least 50 percent responsible for some 396 worker deaths, according to reporting by McClatchy Newspapers. The lab declined to comment for this story.

Still, compensation and benefits under the Act has been notoriously hard to come by for INL workers. Some $220 million in compensations and medical bills has been paid out to INL workers in recent years under the Act — but that’s no solace to thousands of workers who have been turned away.

About two out of three INL claims have been denied, according to Department of Labor data. And it’s been known to take as long as four years to get a verdict, said Angela Hays Carey, community liaison with Nuclear Care Partners, a health care provider for nuclear workers.

Ray Haroldsen, 88, was one of the lucky ones. He started at the lab as an electrical engineer in 1952, working on various pioneering nuclear reactors such as Experimental Breeder Reactor-I, Borax and EBR-II.

He knows he was exposed to radiation over the years. But it ended up being asbestos exposure that triggered lung disease and other ailments after he retired. It was a relatively straightforward and quick process to demonstrate to the Department of Labor that the asbestos exposure happened at work, he said.

Under the Act, Haroldsen received compensation and the government pays for a nurse to check on him once a week at his Idaho Falls home. He has a Department of Labor-issued card that covers a wide variety of treatments and medications.

“I don’t have any complaints,” Haroldsen said. “It seems to me, they might’ve even been a little over-generous. I’m getting more help now than I really need.”

Others haven’t been so fortunate.

Dennis Keiser, 76, worked all over the site, from various reactors to the Chemical Processing Plant over a nearly 30-year career. He now works for the University of Idaho.

“When I worked out there, the (radiation) monitoring wasn’t all that extensive,” Keiser said. “You could move from facility to facility, and never be monitored, or there were facilities where they didn’t have monitoring badges.”

Two years ago, he applied to receive benefits and compensation for his colon cancer. He also applied for his skin cancer. But the government denied his claims within several months. He was unable to prove with at least 50 percent probability that either cancer was related to exposure at work.

For Keiser, the special exposure cohort will likely mean he'll finally get compensation and benefits without facing the huge challenge of proving to the government he was exposed. He plans to look into the possibility soon.

"Let's put it this way," he said. "I was around radiation."

More cohort coverage possible

Frowiss, the claims advocate, said the addition of the Idaho cohort classes drastically increases the chances a worker will be compensated.

"The significance of the cohort is, if you fit the rules, you get a legal presumption that radiation is what caused the cancer," he said. "Without that, you have to prove through other means that the cancer was caused by toxins in the workplace."

But Frowiss warned that even under the cohort, nothing is "automatic," especially for family members of nuclear workers who have died. "If it was automatic, they'd get rid of 500 examiners," he said. "You wouldn't need any examiners to adjudicate claims."

Frowiss helps workers and families through the bureaucratic and lengthy application process, and if they are successful, he charges 2 percent of whatever they are eventually paid. He said the cohort claims process can take anywhere from four or five months to more than a year.

Stuart Hinnefeld, director of NIOSH's Division of Compensation Analysis and Support, said more than 250 claims will be affected by the new INL cohort class, with fewer than five from the older ANL-West class.

Hinnefeld said it is possible that more cohort classes will be added for additional INL facilities and time frames in the coming years. He said a primary focus will be workers at the old Idaho Chemical Processing Plant, where spent nuclear fuel was processed and recycled.

“An evaluation for additional (cohort) years at the Idaho Chemical Processing Plant is already planned and initial work is underway,” Hinnefeld said in an email.

He added: “NIOSH is also still evaluating whether it is feasible to reconstruct doses at some other parts of INL for some years.” This work could soon lead to additional special cohort classes being established, he said.

Tami Thatcher, a former nuclear safety analyst at INL who has followed the cohort process closely, argued that there are numerous additional INL workplaces and time frames that should be added to the special exposure cohort, stretching from the 1950s through the 1980s.

There is even good reason to cover former workers who didn’t work in radioactive areas, she said. That’s because they would’ve been exposed to drinking water that was historically contaminated with a “soup of chemicals,” including radioactive material such as americium-241.

Blair Burroughs, who lives in Walla Walla, Wash., said before he learned about the new INL special exposure cohort, he and his family were ready to give up on getting compensation after E’s death.

They were lucky to come across some of E’s old medical records, which will prove to the government he had pancreatic cancer. It should clear the way for the Burroughs family to receive a $150,000 payout from the Department of Labor in the coming months. But it won’t fix everything, Blair said.

“The money doesn’t make up for losing your dad.”